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8 **UNITED STATES BANKRUPTCY COURT**
9 **WESTERN DISTRICT OF WASHINGTON, TACOMA DIVISION**

10 In re:

11 CARRIE ANN RIVERS,

12 Debtor.
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Bankruptcy Case No. 19-43575-MJH

Chapter 13

**OBJECTION TO CONFIRMATION OF
AMENDED CHAPTER 13 PLAN**

HEARING DATE:

DATE: January 23, 2020

TIME: 1:00 PM

CTRM: H

PLACE: 1717 Pacific Avenue
Tacoma, WA 98402

20 **TO THE HONORABLE MARY JO HESTON, UNITED STATES BANKRUPTCY COURT**
21 **JUDGE, THE CHAPTER 13 TRUSTEE, THE DEBTOR, AND THE DEBTOR'S COUNSEL:**

22 Bank of America, N.A. ("BANA"), the holder of a secured claim recorded against property
23 in which the Debtor claims an interest, hereby objects to confirmation of the Debtor's Amended
24 Chapter 13 Plan ("Amended Plan").

25 BANA is the holder of a claim secured only by a security interest in the real property
26 commonly known as 2214 Lakemoor Dr SW, Olympia, Washington 98512 ("Property"), which is
27 the Debtor's principal residence. The total amount due and owing under the Promissory Note is
28

1 \$179,525.92 and the pre-petition arrears owed total \$25,022.05.

2 Section 1322(b) of the United States Bankruptcy Code provides, in relevant part, as follows:

3 (b) Subject to subsections (a) and (c) of this section, the plan may--

4 . . .

5 (2) modify the rights of holders of secured claims, other than a claim secured only
6 by a security interest in real property that is the Debtor's principal residence

7 . . .

8 (5) notwithstanding paragraph (2) of this subsection, provide for the curing of
9 any default within a reasonable time and maintenance of payments while the case
10 is pending on any unsecured claim or secured claim on which the last payment is
11 due after the date on which the final payment under the plan is due; . . .

12 The Debtor's Amended Plan understates the pre-petition arrears due and owing to BANA.
13 The Amended Plan provides for repayment of the pre-petition arrears in the amount of \$24,000.00;
14 however, the total amount of pre-petition arrears due and owing total \$25,022.05. Thus, the
15 Amended Plan fails to comply with § 1322(b)(2), § 1322(b)(5), and § 1325.

16 Based upon the foregoing, BANA respectfully requests that the Court deny confirmation of
17 the Amended Plan or, in the alternative, order that the Amended Plan be further amended to provide
18 for full payment of the pre-petition arrears due and owing to BANA.

19 DATED: January 16, 2020

Respectfully Submitted,
MALCOLM ♦ CISNEROS, A Law Corporation

21 /s/ Nathan F. Smith

NATHAN F. SMITH, WSBA #43160

22 Attorney for Bank of America, N.A.

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PROOF OF SERVICE

STATE OF CALIFORNIA

ss.

COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of eighteen and not a party to the within action; my business address is: 2112 Business Center Drive, Second Floor, Irvine, CA 92612.

On January 16, 2020, I served the following document described as **OBJECTION TO CONFIRMATION OF AMENDED CHAPTER 13 PLAN** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Irvine, California (**and via telecopy or overnight mail where indicated**), addressed as follows:

DEBTOR

Carrie Ann Rivers
2214 Lakemoor Drive SW
Olympia, WA 98512

DEBTORS' ATTORNEY

Ellen Ann Brown
744 S Fawcett Ave
Tacoma, WA 98402

CHAPTER 13 TRUSTEE

Michael G. Malaier
2122 Commerce Street
Tacoma, WA 98402

U.S. TRUSTEE

United States Trustee
700 Stewart St Ste 5103
Seattle, WA 98101

I declare under penalty of perjury that the foregoing is true and correct.
Executed on January 16, 2020 at Irvine, California.

/s/ Kelli Brown
Kelli Brown